



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 6854-99

14 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 29 October 1977 for four years. The record reflects that you served for only five months without incident. During the 13 month period from March 1978 to February 1979 you received six nonjudicial punishments (NJP) for possession of marijuana, six brief periods of unauthorized absence (UA) totalling about 10 days, disobedience of a lawful order, and breaking restriction.

On 20 December 1979 you were convicted by special court-martial of five periods of UA totalling about 76 days. You were sentenced to confinement at hard labor for three months, forfeitures of \$150 per month for three months, reduction in rank to PVT (E-1), and a bad conduct discharge. On 10 January 1980 you requested remission of the punitive discharge but did not desire to be restored to duty. Clemency was denied and the Navy Court of Military Review affirmed the findings and the sentence on 21 May 1980. You received the bad conduct discharge on 24 October 1980.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity, limited education, and the fact that it has been more than 19 years since you were discharged. The Board noted your statement expressing regret for the actions which led to your discharge and your need for certain veterans benefits. The Board concluded that these factors and statement were insufficient to warrant recharacterization of your discharge given your record of six NJPs and a special court-martial conviction. The Board believed that you were guilty of too much misconduct to warrant recharacterization of your discharge to honorable or under honorable conditions. Your conviction and discharge were effected in accordance with applicable law and regulations and the discharge appropriately characterizes your service. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director